

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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W.S. MOLNAR CO. d/b/a SLIPNOT METAL
SAFETY FLOORING,

Plaintiff,

-against-

GLOBAL METALS CORPORATION,
TRITON STRUCTURAL CONCRETE, INC.,
ALLEGHENY CASUALTY COMPANY, and
LIBERTY MUTUAL INSURANCE
COMPANY

Defendants.

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Defendant, Global Metals Corporation ("Global Metals"), by its attorneys, D'Agostino, Levine, Landesman & Lederman, LLP, as and for its reply ("Reply") to the cross-claim (the "Cross-Claim") of co-defendants Triton Structural Concrete, Inc. ("Triton") and Liberty Mutual Insurance Company ("Liberty") (collectively, "Co-Defendants"), states as follows:

FIRST COUNT OF THE CROSS-CLAIM

1. Denies the truth of each and every allegation set forth in Paragraph 1 of the First Count of Co-Defendants' Cross-Claim.
2. Denies the truth of each and every allegation set forth in Paragraph 2 of the First Count of Co-Defendants' Cross-Claim.

SECOND COUNT OF THE CROSS-CLAIM

1. In response to Paragraph 1, defendant Global Metals repeats, reiterates and incorporates by reference the preceding paragraphs of its Reply to the First Count of Co-Defendants' Cross-Claim as if fully set forth herein.

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**REPLY TO
CROSS-CLAIMS**

2. Defendant Global Metals neither admits nor denies the allegations set forth in Paragraphs 2 and 3 of the Second Count of Co-Defendants' Cross-Claim as they are directed at defendant Allegheny Casualty Company.

THIRD COUNT OF THE CROSS-CLAIM

1. In response to Paragraph 1, defendant Global Metals repeats, reiterates and incorporates by reference the preceding paragraphs of its Reply to the First and Second Counts of Co-Defendants' Cross-Claim as if fully set forth herein.

2. Denies knowledge or information sufficient to form a belief about the truth of the allegations set forth in Paragraph 2 of the Third Count of Co-Defendants' Cross-Claim.

3. Denies the truth of each and every allegation set forth in Paragraph 3 of the Third Count of Co-Defendants' Complaint, and affirmatively states that the project, which is identified as the Beachfront Restoration Project, entailed the restoration of public beaches which were damaged by Hurricane Sandy and that defendant Global Metals was awarded the subcontractor for steel work.

4. Denies the truth of each and every allegation set forth in Paragraph 4 of the Third Count of Co-Defendants' Complaint, and affirmatively state that defendant Global Metals was awarded as the subcontractor for steel work portion and that certain purchase orders and amendments to purchase orders were entered into by the parties. Defendant Global Metals, refers the Court to the referenced documents for their contents, terms and conditions.

5. Denies knowledge or information sufficient to form a belief about the truth of the allegations set forth in Paragraph 5 of the Third Count of Co-Defendants' Cross-Claim and affirmatively states that defendant Global Metals and defendant Triton executed amendments to

purchase orders 12 and 12A. Defendant Global Metals respectfully refers the Court to the referenced documents for their terms and conditions.

6. Denies the truth of each and every allegation set forth in Paragraph 6 of the Third Count of Co-Defendants' Cross-Claim, and affirmatively states that certain project materials were ordered from plaintiff W.S. Molnar Co. d/b/a Slipnot Metal Safety Flooring ("Plaintiff") and paid for by defendant Triton by way of joint checks which were made payable to both defendant Global Metals and Plaintiff.

7. Denies the truth of each and every allegation set forth in Paragraph 7 of the Third Count of Co-Defendants' Cross-Claim.

8. Denies the truth of each and every allegation set forth in Paragraph 8 of the Third Count of Co-Defendants' Cross-Claim.

9. Denies the truth of each and every allegation set forth in Paragraph 9 of the Third Count of Co-Defendants' Cross-Claim.

10. Denies the truth of each and every allegation set forth in Paragraph 10 of the Third Count of Co-Defendants' Cross-Claim.

FOURTH COUNT OF THE CROSS-CLAIM

1. In response to Paragraph 1, defendant Global Metals repeats, reiterates and incorporates by reference the preceding paragraphs of its Reply to the First, Second and Third Counts of Co-Defendants' Cross-Claim as if fully set forth herein.

2. Defendant Global Metals neither admits nor denies the allegations set forth in Paragraphs 2 through 5 of the Fourth Count of Co-Defendants' Cross-Claim as they are directed at defendant Allegheny Casualty Company.

FIFTH COUNT OF THE CROSS-CLAIM

1. In response to Paragraph 1, defendant Global Metals repeats, reiterates and incorporates by reference the preceding paragraphs of its Reply to the First, Second, Third and Fourth Counts of Co-Defendants' Cross-Claim as if fully set forth herein.

2. Defendant Global Metals neither admits nor denies the allegations set forth in Paragraphs 2 through 4 of the Fifth Count of Co-Defendants' Cross-Claim as they are directed at defendant Allegheny Casualty Company.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. To the extent Co-Defendants are liable to Plaintiff, any damages were caused by the acts or inactions of Co-Defendants and/or third parties, not by the actions or inactions of defendant Global Metals.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. Co-Defendants' claims are barred by the equitable doctrine of unclean hands.

WHEREFORE, the defendant Global Metals Corporation (“Global Metals”) respectfully demands entry of a judgment (a) dismissing defendants Triton Structural Concrete, Inc. and Liberty Mutual Insurance Company’s Cross-Claims in their entirety; and (b) granting defendant Global Metals such other and further relief as this Court deems just and proper.

Dated: New York, New York
February 26, 2015

D’Agostino, Levine, Landesman &
Lederman, LLP

By: 

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